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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JAMES CLINTON FAIRCLOTH, JR.,

7 Petitioner,

8 v.

9 PATRICK R. GLEBE,

10 Respondent.

No. C11-5895 RBL/KLS

ORDER DENYING EXTENSION OF
TIME

11 Before the Court is Petitioner's motion for extension of time to file his petition for writ of
12 habeas corpus. ECF No. 10. On October 31, 2011, Petitioner James Clinton Faircloth filed a
13 Motion for Extension of Time to File a § 2254 Petition, requesting ninety days to file his
14 petition. ECF No. 1. At that time, Mr. Faircloth had not paid the \$5.00 filing fee or filed an
15 application to proceed in forma pauperis (IFP) or filed a petition for writ of habeas corpus. On
16 November 4, 2011, the Clerk of Court sent to Petitioner the forms needed to file a petition for
17 writ of habeas corpus and application to proceed IFP, and a Prisoner Litigation Manual. ECF No.
18 2. The Court denied the motion for extension of time and ordered Mr. Faircloth to pay the \$5.00
19 filing fee or submit an application to proceed IFP and file his petition for writ of habeas corpus
20 on the forms provided on or before December 7, 2011.

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22 On December 7, 2011¹, Mr. Faircloth filed his petition for writ of habeas corpus and
23 affidavit in support of petition. ECF No. 5. Mr. Faircloth also filed a motion for a ninety day
24 extension of time, until March 7, 2011, to file his petition for writ of habeas corpus. Mr.
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¹ The petition was filed by the Clerk on December 9, 2011 but the Petition is deemed filed on the date it is signed by the Petitioner.

1 Faircloth claims that because he is incarcerated, he does not believe "in good faith" that he can
2 make the Court's deadline of December 7, 2011. ECF No. 10.

3 Mr. Faircloth's petition and affidavit are already filed. Therefore, it appears he has
4 already met the Court's deadline. The petition and affidavit will be served on the Respondent.
5 Within forty-five (45) days after such service, the Respondent will file and serve an answer in
6 accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District Courts
7 which will include relevant portions of the state court record. As part of such answer,
8 Respondent will address whether Petitioner has exhausted available state remedies, whether an
9 evidentiary hearing is necessary, and whether there is any issue of abuse of delay under Rule 9.
10 Upon receipt of the answer, the Clerk will note the matter for consideration on the fourth Friday
11 after the answer is filed. Mr. Faircloth will then have an opportunity to file and serve a response
12 not later than on the Monday immediately preceding the Friday appointed for consideration of
13 the matter, and Respondent may file and serve a reply brief not later than the Friday designated
14 for consideration of the matter.
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17 Accordingly, it is **ORDERED**:

- 18 (1) Petitioner's motion for an extension of time (ECF No. 10) is **DENIED**.
19 (2) The Clerk is directed to send copies of this Order to Petitioner.
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21 DATED this 3rd day of January, 2012.

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23 Karen L. Strombom
24 United States Magistrate Judge
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